

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.1593 of 2021**

- Devendra Sidar S/o Phoolsingh Sidar Aged About 20 Years Occupation Student R/o Village Kachhar Thana Bhupdevpur District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh

---- **Petitioner****Versus**

- State Of Chhattisgarh Through Station House Officer Police Station Kotra Road District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh

---- **Respondent**

For Applicant	:	Shri Ashish Gupta, Advocate
For Respondent/State	:	Shri Sushil Sahu, Panel Lawyer

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****30/07/2021**

Heard.

1. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.343/2019 registered at Police Station Kotrar Road, Raigarh, for the offence punishable under Section 363, 366, 313 of IPC and Section 6 of the POCSO Act. The applicant was arrested on 30-12-2019.
2. This is repeat bail application. Earlier bail application was dismissed as withdrawn vide order dated 16-09-2020 with liberty, as prayed for.
3. It is alleged that the applicant has committed rape on the prosecutrix, who is minor.
4. Learned counsel for the applicant would argue that the the prosecutrix has now been examined during trial and her evidence makes it clear that she was a consenting party. It is next argued that as far as age of the prosecutrix is concerned, even according to her parents, who have been examined as PW-2 & PW-3 and Radiologist report, it is doubtful that the age of the prosecutrix is less than 18 years of age. He would further argue that the author of the school records making entry of date of birth has not been examined. It is also argued that the father of the prosecutrix has stated that the age of the prosecutrix was recorded on estimation and he does not know the exact date of birth.

5. On the other hand, learned counsel for the State/non-applicant opposes the bail application by submitting that the material evidence with regard to age of the prosecutrix, whether it be oral evidence is not on record, but the Radiologist report would prima facie show that the prosecutrix was less than 18 years of age and according to the prosecutrix, she was being subjected to sexual intercourse by the applicant much prior to the date of lodging of report.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the material with regard to the age of the prosecutrix, I am not inclined to grant bail to the applicant.

7. Accordingly, the bail application (MCRC No.1593 of 2021) is rejected. However, considering that the applicant is in jail since 30-12-2019, the trial Court is directed to expedite the trial and conclude the same as early as possible, preferably within a period of four months.

Certified copy as per rules.

SD/-
(**Manindra Mohan Shrivastava**)
Judge